

## **MILITARY COMMISSIONS**

### **Fact Sheet**

On Tuesday, October 17<sup>th</sup>, the President signed the Military Commissions Act of 2006 into law. The Act enables the President to establish military commissions, and establishes procedures to try alien unlawful enemy combatants for violations of the law of war.

Military commissions have historically been used to prosecute unlawful enemy combatants who violate the laws of war. The last time the United States used the military commission process was during World War II.

The Military Commissions Act of 2006 establishes jurisdiction over alien unlawful enemy combatants. The Act defines an “alien unlawful enemy combatant” as either: a “person who has engaged in hostilities or has purposefully and materially supported hostilities against the United States or its co-belligerents” and is not a lawful enemy combatant; or a person determined by a tribunal, such as a Combatant Status Review Tribunal, to be an unlawful enemy combatant.

Only those detainees who will be charged with law of war violations and other grave offenses, estimated to be roughly 75 detainees, will be subject to military commissions.

The Military Commissions Act of 2006 delegates the authority to prescribe regulations governing the commissions to the Secretary of Defense. The Department of Defense is currently developing these implementing regulations.

Military commissions will take time to reconvene, with trials not expected until 2007. Due to the extensive size, scope and complexity of the trials, additional infrastructure and personnel will be required at Guantanamo to proceed with justice as soon as possible. The Department of Defense is currently assessing options for new courtrooms and support facilities.

While there is no specific timeline for commissions, the Department will announce trial terms as they are finalized. To date, no decisions have been made about the order in which individual detainees will be tried or about the timing of any individual detainee's commission.

The Department of Defense intends to ensure the military commission proceedings are as transparent as possible, within the bounds of operational security and safety.

The majority of the 440 detainees currently held at Guantanamo will not face military commissions, but rather are held to prevent their return to the fight. Over 100 of these have been determined eligible for departure, pending further discussions with a variety of other nations with citizens at Guantanamo.